

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

**JESSE D. SORIA**

Claimant

VS.

**SEDGWICK COUNTY**

Respondent

Self-Insured

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Docket No. 219,112

**ORDER**

Claimant appealed the Award dated January 28, 1998, entered by Administrative Law Judge Jon L. Frobish. The Appeals Board heard oral argument on September 2, 1998.

**APPEARANCES**

Gerard C. Scott of Wichita, Kansas, appeared for the claimant. E. L. Lee Kinch of Wichita, Kansas, appeared for the respondent.

**RECORD AND STIPULATIONS**

The record considered by the Appeals Board and the parties' stipulations are listed in the Award.

**ISSUES**

The Judge found that claimant sustained only a temporary aggravation to his back as a result of his May 21, 1996, accident. Claimant now requests the Appeals Board to review that finding. Nature and extent of injury and disability is the only issue before the Appeals Board on this appeal.

**FINDINGS OF FACT**

After reviewing the entire record, the Appeals Board finds:

- (1) On May 21, 1996, Jesse D. Soria injured his back when his chair broke and he fell to the floor. The accident occurred while Mr. Soria was working for Sedgwick County and arose out of and in the course of employment.
- (2) Mr. Soria was initially taken off work and treated conservatively. Later, Mr. Soria was referred to orthopedic surgeon Bernard T. Poole, M.D., who had previously operated on

Mr. Soria's low back in both 1978 and 1983. In September 1978, Dr. Poole performed a discectomy for a herniated disc at L5-S1 and in April 1983 fused those vertebrae.

(3) Dr. Poole treated Mr. Soria for the May 1996 accident from August 27, 1996, through February 6, 1997, seeing him on five different occasions. At the end of that treatment, Dr. Poole released Mr. Soria to return to work without restrictions.

(4) The Appeals Board agrees with Judge Frobish's finding that Mr. Soria experienced only a temporary injury or aggravation to his back as a result of the May 1996 accident. That conclusion is supported by Dr. Poole's testimony, which the Appeals Board finds more persuasive than that of Drs. Estivo and Ricke.

#### **CONCLUSIONS OF LAW**

The Award should be affirmed.

Mr. Soria is entitled to an Award for the medical treatment provided and temporary total disability benefits. Because Mr. Soria did not sustain permanent impairment or injury as a result of this work-related accident, his disability benefits are limited to the 12.14 weeks of temporary total that have been represented as paid.

#### **AWARD**

**WHEREFORE**, the Appeals Board affirms the Award dated January 28, 1998, entered by Administrative Law Judge Jon L. Frobish.

Dated this \_\_\_\_ day of September 1998.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

c: Gerard C. Scott, Wichita, KS  
E. L. Lee Kinch, Wichita, KS  
Jon L. Frobish, Administrative Law Judge  
Philip S. Harness, Director